



MISSOURI ETHICS COMMISSION
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James Klahr
Executive Director

February 10, 2017

Re: Advisory Opinion No. 2017.02.CF.003

Dear .

At the February 10, 2017 meeting of the Missouri Ethics Commission, your request for an opinion was discussed.

Opinion

Pursuant to §105.955.16, RSMo, the Missouri Ethics Commission may issue a written opinion regarding any issue on which the Commission can receive a complaint pursuant to §105.957, RSMo. The Commission receives complaints alleging violation of campaign finance provisions of Missouri law. This opinion is issued within the context of Missouri's laws governing such issues, and assumes the facts presented by you in your letter.

The question presented is:

Are continuing committees/political action committees subject to contribution limits of Amendment 2 for contributions received by the committees?

It is the Commission's opinion that the contribution limits apply to candidate committees and only to continuing committees/political action committees if a contribution to that committee is restricted or designated for a candidate.

Supporting Analysis

Article VIII, §23.3(1), of the Missouri Constitution imposes contribution limits as follows:

Except as provided in subdivisions (2), (3) and (4) of this subsection, the amount of contributions made by or accepted from any person other than the candidate in any one election shall not exceed the following:

- (a) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, office of state senator, office of state representative or any other state or judicial office, two thousand six hundred dollars.

It is the Commission's opinion that the contribution limits apply to candidate committees and only to continuing committees/political action committees if a contribution to that committee is restricted or designated for a candidate.

§23.7 provides definitions of campaign finance committees similar to those found in §130.011, RSMo, with the addition of a "political action committee." A candidate committee is defined as "a committee which shall be formed by a candidate to receive contributions or make expenditures in behalf of the person's candidacy..." §23.7(6)(b).

Unlike a candidate committee which has a specific purpose related to a candidate, continuing and political action committees can have multiple purposes as follows:

"Continuing committee", a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee or campaign committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter.

"Continuing committee" includes, but is not limited to, any committee organized or sponsored by a business entity, a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters. Such committee shall be formed no later than sixty days prior to the election for which the committee receives contributions or makes expenditures; §23.7(6)(c).

"Political action committee", a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee, political party committee, campaign committee, exploratory committee, or debt service committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter. Such a committee includes, but is not limited to, any committee organized or sponsored by a business entity, a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters. Such committee shall be formed no later than sixty days prior to the election for which the committee receives contributions or makes expenditures; § 23.7 (20).¹

¹ As noted in Commission opinion 2017.02.CF.002 the definitions of continuing and political action committees are substantially the same in §23.7. The Commission interprets these committees to be

A continuing committee/political action committee is created for multiple purposes, including supporting or opposing candidates and supporting or opposing ballot issues, even if the committee has not yet identified particular candidates or ballot measures to support or oppose. In addition, this type of committee is one "of continuing existence" and, therefore, may continue in operation beyond any one election cycle.

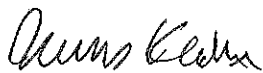
In order to satisfy the intent of the limitation, the contributing person must intend for the contribution to be used for the election of an individual to one of the enumerated offices. Therefore, the \$2,600 contribution limit per election presumptively does not apply to contributions received by a continuing committee unless a contribution to a continuing committee has been restricted or designated for a candidate. While the committee may ultimately expend money advocating for a specific individual during a campaign, the limitation specifically applies to "contributions made by or accepted from any person." §23.3(1). Thus, contributions made to enumerated candidates by a continuing committee/political action committee are subject to the \$2,600 limitation.

The language in §23.3(1), is similar to §130.032, RSMo (repeal effective December 31, 2006) which previously imposed contribution limits although in different amounts. While that law was in effect, previous Commission opinions also found that the contribution limits did not apply to contributions received by continuing committees, MEC No. 1995.01.102, <http://mec.mo.gov/Scanned/PDF/Opinions/116.pdf>, nor to campaign committees, MEC No. 1996.03.124, <http://mec.mo.gov/Scanned/PDF/Opinions/185.pdf>.

However, if a contribution received by a continuing committee, or a portion of that contribution, is restricted or designated for a particular candidate, the \$2,600 contribution limit per election applies because the contribution is received with the purpose of electing an individual candidate to office. This opinion is consistent with an earlier Commission Opinion, MEC No. 1995.10.156, <http://mec.mo.gov/Scanned/PDF/Opinions/149.pdf>.

§130.041(10), RSMo, instructs committees how to report contributions restricted or designated for a particular candidate.

Sincerely,



James Klahr
Executive Director

the same despite the fact that the constitutional provision refers to these committees in separate definitions. For the purposes of this Opinion, any references to either committee includes both.